COM/LYN/epg

Mailed 9/13/2001

Decision 01-09-012 September 6, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies and Programs Governing Energy Efficiency, Low-Income Assistance, Renewable Energy and Research Development and Demonstration.	Rulemaking 98-07-037 (Filed July 23, 1998)

OPINION REGARDING PG&E'S EMERGENCY PETITION FOR MODIFICATION OF DECISION 01-07-028

Summary

In this decision the Commission approves the Emergency Petition for Modification of Decision (D.) 01-07-028 submitted by Pacific Gas and Electric Company (PG&E) on August 9, 2001.[1] In D.01-07-028, the Commission did permit PG&E and Southern California Edison Company (SCE) to recover the reasonable costs they incur to implement the programs ordered by the Commission in D.01-03-073, even if those costs would need to be recovered after the end of the utilities' respective rate freezes. However, as pointed out by PG&E, this determination to permit full recovery of reasonably incurred costs is ambiguous and inconsistently set forth in D.01-07-028. Accordingly, today's decision modifies

[1] We note that PG&E also filed an application for rehearing of D.01-07-028. Today's decision is not intended to prejudge the disposition of this rehearing application.

D.01-07-028 to clarify this ambiguity and eliminate any inconsistencies in the decision. We adopt the changes proposed by PG&E in the manner set forth below.

Background

Assembly Bill (AB) 970 directed the Commission to initiate certain utility-performed load control and distributed generation programs within 180 days of its enactment. In D.01-03-073, the Commission ordered PG&E, SCE and San Diego Gas and Electric Company (SDG&E) to fund two load control and self-generation programs at a combined annual cost of $138 million per year for four years.

On April 30, 2001, PG&E filed an emergency petition for modification of D.01-03-073 seeking an immediate increase in rates to fund these programs, or to fund the programs using money collected by PG&E on behalf of the Department of Water Resources. PG&E indicated that due to its rate freeze, and the Commission's decisions precluding post-freeze recovery of costs incurred during the freeze, PG&E had no certainty of recovery of its costs for the AB 970 programs, and would therefore not fund them. SCE filed comments in support of PG&E's petition.[2]

In D.01-07-028, the Commission did not approve PG&E's request for an immediate rate increase. However, in recognition of the utilities' need to recover the costs of these programs, and the need for expedited implementation of these programs, the Commission authorized PG&E and SCE to recover their costs even if such recovery required collection after the end of the utilities' rate freezes.

In its August 9, 2001 petition, PG&E indicates that while the intent of D.01-07-028 was to allow the utilities to recover their costs of funding AB 970

[2] SDG&E did not share the other utilities' concern as its rate freeze had already ended.

programs, the specific wording of the decision is ambiguous and in places contradictory. PG&E also indicates that the requirement in D.01-07-028 to record their costs in a Demand Responsiveness and Self-Generation Program Incremental Cost Balancing Account and transfer those balances to the utilities' transition revenue accounts (TRA) may result in the utilities not being able to recover their costs after the end of their rate freezes, despite the Commission's stated intentions.

On August 24, 2001, an Assigned Commissioner Ruling (ACR) was issued requiring comments on PG&E's Petition to be submitted by August 31, 2001. The only comments submitted were from the Office of Ratepayer Advocates, which did not oppose PG&E's request.

Discussion

In D.01-07-028, the Commission determined that SCE and PG&E would be permitted to recover the reasonable costs incurred for the AB 970 programs, even if such recovery required an exemption from the Commission's prohibition of recovery of costs post-freeze. However, as PG&E's petition correctly indicates, D.01-07-028 contains language that is ambiguous and inconsistent, and thus, the decision must be modified to correctly reflect the Commission's determination. In its petition for modification PG&E has proposed modifications to D.01-07-028, including but not limited to changing the balancing account to a memorandum account to record the program costs. We believe that these proposed modifications are reasonable, and thus we adopt PG&E's proposed changes in the manner set forth in Ordering Paragraph 2.

Pursuant to Pub. Util. Code § 311(g)(3) and Rule 77.7(f)(2), we waive the public review and comments period because this is an uncontested matter where we are granting the relief requested.

Findings of Fact

1. In D.01-07-028, the Commission determined that SCE and PG&E should recover reasonable costs incurred to fund AB 970 programs.

2. D.01-07-028 contains language that is ambiguous and inconsistent with the Commission's determination to permit the recovery of reasonably incurred costs. The Demand Responsiveness and Self-Generation Program Incremental Cost Balancing Account ordered in D.01-07-028 should be replaced with a memorandum account.

Conclusion of Law

1. D.01-07-028 should be modified to eliminate the ambiguities and contradictory statements regarding the utilities' ability to recover their costs for programs ordered in D.01-03-073.

2. The proposed modifications contained in PG&E's Emergency Petition For Modification of D.01-07-028 eliminate the ambiguous and contradictory language in D.01-07-028, are reasonable, and are consistent with the Commission's determination concerning the recovery of reasonable incurred costs, even after the end of each utility's rate freeze.

O R D E R

Therefore**, IT IS ORDERED** that:

1. Pacific Gas and Electric Company's Emergency Petition for Modification of Decision (D.) 01-07-028 is granted to clarify any ambiguities or inconsistent in the decision, in the manner set forth in this decision.

2. D.01-07-028 is modified as follows:

a. The second sentence in the "1. Summary" on page 1 shall be replaced with the following sentence: "We reaffirmed that the memorandum account established in D.01-03-073 shall be used to provide a mechanism for recovery of reasonable costs incurred to implement the AB 970 programs."

b. The second sentence in the third full paragraph in "3. Discussion" on page 3 shall be replaced with the following sentence: "Instead, we will reaffirm the use of the memorandum account established in D.01-03-073 to provide a mechanism for the recovery of reasonable incurred costs."

c. The first and second sentences in the third full paragraph on page 4 shall be replaced by the following sentence: "We reaffirm that PG&E and the other respondent utilities in D.01-03-073 are authorized to establish a memorandum account as specified in that decision."

d. The following language shall be deleted from the first full paragraph on page 5: "We will direct PG&E to transfer the balances in the DRSGPIC to their Transition Revenue Account (TRA) monthly. These costs are recoverable, as we are persuaded that the companies cannot defer recovery. It is in the TRA that PG&E should recover their authorized distribution revenue requirement for non-energy items before determining the residual available for stranded cost recovery in their Transitional Cost Balancing Account (TCBA). PG&E shall reflect this modification in their TRA tariff. This treatment assures recovery of these costs ahead of their stranded costs."

e. The second full paragraph on page 5, which discusses the balancing account, shall be deleted.

f. Finding of Fact No. 1 shall be replaced by the following language: "The memorandum account ordered in D.01-03-073 to track the reasonable

incurred costs by respondent utilities in their implementation of the AB 970 programs shall be unchanged.

g. Finding of Fact No. 2 shall be replaced by the following language: "The memorandum account constituted a mechanism for recovery of such costs."

h. Conclusion of Law No. 1 shall be deleted.

i. Conclusion of Law No. 7 shall be deleted.

j. The words "balancing accounts" in Conclusion of Law No. 8 shall be replaced with the words: "memorandum accounts."

k. Ordering paragraph No. 2 shall be deleted.

3. Ordering Paragraph No. 3 shall be deleted, and replaced with the following language: "Within five days of the date of this order, respondent utilities shall file and serve an advice letter with any revised tariffs as may be necessary in light of today's decision."

This order is effective today.

Dated September 6, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners